

FCC MAIL SECTION

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Federal Communications Commission

DA 98-364

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 97-104
Table of Allotments,) RM-9048
FM Broadcast Stations.)
(Wellington, Texas))
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 18, 1998

Released: February 27, 1998

By the Chief, Allocations Branch:

1. At the request of Stacey Allen Austin ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 3696(1997), proposing the allotment of Channel 267C3 to Wellington, Texas, as the community's first local aural transmission service. Petitioner filed comments and reply comments restating her interest in applying for Channel 267C3, if allotted. Hunt Broadcasting, Inc., licensee of Station KDVE(FM), licensee of Channel 269C3, Denison-Sherman, Texas, filed a counterproposal and reply comments.^{1 2}

2. We believe the public interest would be served by allotting Channel 278C3 instead of Channel 267C3 since petitioner's has agreed to the alternate channel and its allotment will afford Hunt Broadcasting an opportunity to submit its change of community counterproposal as a new petition for rule making once the Application for Review in MM Docket No. 95-126 is finalized. The allotment of Channel 278C3 will provide Wellington with its first local aural transmission

¹ On May 19, 1997, Hunt Broadcasting, Inc., licensee of Station KIKM, Channel 269C1, Denison-Sherman, Texas, filed a counterproposal proposing the substitution of Channel 269C for Channel 269C1, reallocation of its channel to Azle, Texas, and modification of Station KIKM's license to specify Azle as the community of license. This counterproposal was unacceptable and was not placed on public notice. At the time, this counterproposal was filed, it was short-spaced to Station KJKB, Channel 269A, Jacksboro, Texas. In this regard, we note that in MM Docket No. 95-126, Station KJKB's construction permit had been modified to specify operation on Channel 252A. However, that action was on appeal and not final. We also note that alternate channels had been proposed for Station KJKB in MM Docket No. 96-10 and MM Docket No. 97-91. Again, at the time the Hunt Broadcasting counterproposal was filed, none of these proposals were final.

² After the record closed, Hunt Broadcasting filed a "Motion for Leave to Supplement Record" and "Supplement to Counterproposal and Request for Issuance of Public Notice." The Commission's Rules do not contemplate the filing of pleadings beyond the comment periods set forth in the Notice. Moreover, in view of our action dismissing the underlying Hunt Broadcasting counterproposal, it is not necessary to consider these pleadings.

service. Channel 278C3 can be allotted to Wellington in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.5 kilometers (2.8 miles) southwest in order to avoid a short-spacing conflict with the licensed operation of Station KWOX(FM), Channel 266C, Woodward, Oklahoma.³

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED. That effective April 13, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Wellington, Texas	278C3

4. A filing window for Channel 278C3 at Wellington, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

³ The coordinates for Channel 278C3 at Wellington, Texas, are 34-49-13 NL and 100-14-29 WL.